

Democracy Between Elections

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Democratic elections empower winners with a time-bound right to govern. It might be for a fixed term, as in the U.S., or a fixed term that can be shortened by the prime minister's decision to call an early election or a no-confidence vote in the parliament, as in the U.K. Some democratic constitutions make provision for recall elections, which in effect, make the government's tenure conditional on the continuing confidence of the electorate. Recall elections date back to ancient Greece, but they are rare among modern democracies and even more rarely are they successfully deployed.¹ Recalls are difficult to engineer even when they are provided for, as was evident when Venezuelan President Hugo Chavez fought off a recall referendum in 2004 and when Wisconsin Governor Scott Walker survived a recall election in 2012. As well as the usual advantages of incumbency, recall petitioners must avoid numerous procedural tripwires as they gather large numbers of signatures, and they must do it with scant institutional support. Constitutions that provide for recall seem to have made provision for John Locke's exceptional "long train of abuses" rather than normal democratic politics.

One might speculate as to why governments are not subject to more robust continuing confidence requirements on the part of electorates. This could have to do with considerations of

¹ During the debate on the American constitution the Virginia Plan of 1787 proposed recall provisions for the House of Representatives, but this was not adopted. Eighteen of the American states contain provisions for recall of state officials, but seven of these require "cause"—malfeasance that can be disputed in court. This makes them more like impeachments. Recall is a rarely used instrument in state politics. State governors have been recalled only twice in American history: in 1921 Lynn Frazier of North Dakota was recalled during a dispute about state-owned industries, and in 2003 Grey Davis was recalled by California voters during a dispute over the budget. State senators and representatives, as well as local officials are sometimes recalled, though this, too, is rare, and the courts have ruled that federal officials are not subject to state recall laws.

efficiency, with empowering governments to take unpopular measures whose benefits might not be immediately realized, or with other factors. Whatever the reason, elected governments regard themselves as free to govern unencumbered by that constraint, which would make representative government more likely to shadow what a direct democracy would do. Governments in representative democracies must pass final exams; they are not subject to continuous assessment.

This is not to say that democratic politics stops between elections. Shaping the legislation that governments enact, slowing down or curtailing the scope of unwelcome change, fund-raising and jockeying for positions in future elections, and building support with constituents are all ongoing political activities that are punctuated by elections rather than ended by them. Politics between elections takes three main forms that will be considered seriatim here: the role of “loyal opposition,” the activities of interest groups, and the political mobilization of civil society groups.

“Loyal” opposition

This is an eighteenth century idea that originally had nothing to do with democracy; rather it was intended to solve a monitoring problem. The king’s insecurity about the conduct of His Majesty’s Ministers led to the creation of His Majesty’s Loyal Opposition to generate information about what the ministers were doing. In the democratic world, this idea has evolved into opposition that is loyal to the democratic order rather than the government of the day. It plays a number of roles in democracy between elections, sometimes in tandem and sometimes in tension with other democratic values.

It is most obviously realized in a two-party system of the Westminster sort, where the official opposition confronts the government on a regular basis to demand an accounting of what it is doing and demonstrate the opposition’s competence as a government-in-waiting to the electorate. Prime Minister’s Question Time is the weekly ritual; the leader of the opposition and shadow ministers hurl questions and abuse at the Prime Minister and the rest of the cabinet about the issues of the day. It is

something of a macho exercise, instantiating a strongly competitive model of democracy. It fits less comfortably with the coalition systems that arise out of proportional representation. They depend less on institutionalized confrontations between two strong parties, and more on the idea of including multiple parties in the government. In single-party dominant systems like Russia and South Africa, there is even less scope for formalized loyal opposition, since the opposition parties have no realistic hope of forming governments in the foreseeable future.

One role for loyal opposition is to facilitate alternation in government, the *sine qua non* of democracy in the Schumpeterian tradition. For alternation to be realistic there has to be a plausible alternative waiting in the wings; the official opposition does everything it can to make sure it is visibly that. It is a proving ground for potential prime ministers to show backbenchers and voters that they are up to the task. In the 1997 British election, when John Major's Conservative government was way behind in opinion polls and clearly headed for a rout, one Tory newspaper tried to float the argument that Labour should not be elected because they had been out of government for so long that they wouldn't know how to govern. The argument was a measure of their desperation (not to mention their—perhaps willful—ignorance of British electoral history²). Taking it seriously would have meant abandoning one of the most basic features of the British political system. Unsurprisingly, it cut no ice with the electorate.

When it operates effectively, loyal opposition also contributes to the quality of legislation. The opposition asks hard questions of government policies, exposing hypocrisy, misinformation, and bad arguments. The government fights back, defending its actions and impugning the opposition's motives. By giving the party that lost the election, and expects to fight the next one, the platform and incentive to make ongoing demands from the government to justify what it is doing, the system institutionalizes

² Walpole served for 21 continuous years between 1721 and 1742; William Pitt the Younger for 18 years between 1783 and 1801 (and also from 1804-6); and Lord Liverpool for 14 years from 1812 to 1827.

John Stuart Mill's insistence on the importance of argument in political life. The mere knowledge that the contest takes place is a disciplining device on both sides; it keeps them honest to a greater degree than would otherwise be true.

Notice that argument is a quite different regulative ideal than deliberation. Argument is competitive, geared toward winning; deliberation is cooperative, geared toward persuading. The defense of argument is an invisible-hand one: that the truth will out as a byproduct of competition in the marketplace of ideas—or at least that this will happen more often than under any alternative regime. Deliberation, by contrast, aims at agreement. It can be agreement that ignores the truth if this suits the parties.

Bipartisan agreement is sometimes hailed as a desirable in politics. Barack Obama was widely faulted in the American media for failing to seek Republican support for his proposed healthcare reform in 2009-10. He finally caved in to the criticism in a desperate attempt to enact something. But from the standpoint of the competitive opposition model, bipartisan agreement is nothing to crow about. It is collusion in restraint of democracy. In my view institutionalized competition embodies one of the advantages of the Westminster model over the proportional representation systems prevalent in much of Europe and which has been used in Russia since 2007. This is not to deny the value of deliberative institutions in improving the quality of legislation. In Britain, the House of Lords is a notably less competitive and more deliberative body than the House of Commons. The Lords who participate actively often develop expertises and work collaboratively on the minutiae of bills that MPs in the Commons often do not read. Deliberation has its place, but this should not be confused with argument. Just as markets in the economy are the best generators of reliable information that have been found because of the competition that drives them, so in politics the competitive dynamic is indispensable for

shining the light of truth on politics. A system that institutionalizes opposition institutionalizes that dynamic.

Third, loyal opposition limits corruption. The same incentives that illuminate what governments do also illuminate how politicians behave. Competing politicians have every reason to expose the failings of their opponents when they can, and this knowledge serves as a constraint on behavior. Knowing that there are people with good access to information and institutional support who want your job is a sobering fact. But it does not always work. The parliamentary expenses scandal that erupted in the UK in 2009 ending many political careers is an example, where there was tacit agreement on all sides to ignore the rules governing parliamentary allowances until a whistle-blower leaked the records to the media. It is an exception that proves the rule, however, because the system operated under the purview of the non-partisan Speaker (who lost his job over the affair), and so was not subject to the constraint that would have been present had MPs known that their opponents had access to their expenses claims. Had that been the case, the possibility of defection from the tacit agreement would likely have made people a good deal less sanguine about double and triple-dipping, having their moats cleaned at taxpayer expense, and so on.

Fourth, institutionalizing loyal opposition contributes to stability by defusing disloyal opposition. We have known since the public choice literature of the 1950s and '60s that there are no perfect democratic decision rules. One implication of this fact is that there will always be losers with legitimate grievances in democratic politics. The opposition can be a magnet for the discontented, on which they can pin their hopes to prevail in the future. Between elections the official opposition can also be a conduit for grievances about how the policies of the government are being implemented; they can bring pressure to bear on the government to “edit in the application,” as Philip Pettit has put it—to mitigate

the effects of winners' policies on losers (Pettit, 2000: 105-44). Providing avenues for loyal opposition gives aggrieved parties incentives to stay with the system rather than reach for their guns.

The risks to regimes of failing to create avenues for loyal opposition were dramatized by the events that snowballed through the Middle East starting in 2010. A dozen countries have seen major unrest and three apparently stable dictatorships were overthrown. In Libya, for instance, Muammar Gaddafi's regime had outlawed opposition parties, centralizing power in the General People's Committee. Gaddafi also limited academic freedom and banned independent media (Freedom House, 2012). The eventual response was an explosion of opposition that had no legitimate outlet except for violence, and became an uprising-turned-civil-war that engulfed the country for the next year and ended in Gaddafi's death. Comparable stories can be told about the roles played by the repression of dissent in the revolutions in Tunisia and Egypt and in the civil war that was still underway in Syria in early 2013.

In Russia, a milder version of anti-authoritarian protest erupted in response to widespread allegations of fraud in the legislative and presidential elections of 2011 and 2012. For the first time since the early 1990s, tens of thousands took to the streets in December of 2011 to protest parliamentary election rigged in favor of then-Prime Minister Vladimir Putin's United Russia party (Elder, 2011). The protests – which quickly spread to regional cities – reflected widespread frustration at the absence of legitimate avenues to express grievance. “To me, this election was like a game in which only some players are allowed to compete,” said Heidi Tagliavini, an election observer, to the BBC (BBC, 12/2011). The protests continued into 2012, marring Putin's inauguration in June. The repeated refrain was to demand fair elections, an end to corruption, a free media, and the release of political prisoners (Bershidsky, 2012).

In the short run, the Putin regime defused the protests by comparatively subtle means. Cognizant, perhaps, of how damaging to China's image its heavy-handed approach since Tiananmen

Square has been, the Russians did not kill or seriously injure opposition leaders. They limited themselves to interrogations and arrests that seemed calculated, rather, to disrupt planning and chip away at the movement's momentum (Guardian, 2012). Arrested protesters faced individual trials away from the benefits that might have accrued to them from media limelight. The regime also orchestrated pro-government rallies (with turnout greatly exaggerated in the state-controlled media) through funding and "encouraging" youth groups to attend (Rojansky & Balzer, 2012; 02/04/2012). Putin even spoke at some of them, blaming the unrest on unidentified foreign villains. "We will not allow anyone to interfere in our affairs, to force their will on us," he declared at Luzhniki rally in February. "I want to ask you...please answer with a simple short word—yes—do we love Russia?" (BBC 02/02/2012).

How effectively these efforts will defuse Russian political opposition is unclear. On the one hand, the protests have diminished in size and frequency suggesting that the campaign to wear down the protesters has worked (Bershidsky, 2012). On the other hand, Putin's opponents seem stronger, bolder, and better organized than at any time since he replaced Boris Yeltsin as President in 2000. To cite one example: in October 2012, anti-Putin activists created a 45-member coordinating committee and elected Alexei Navalny, prominent critic of Russian corruption in general and Vladimir Putin in particular, to lead its operations (BBC, 10/2012). At least so far, the Committee's aims seem more disloyal than loyal. Whether the regime can coopt or marginalize such groups, and if so for how long, remains to be seen. The speed with which the protests flared up in 2011 suggests that it could happen again. In Russia, as with much of the Arab spring, it is just too soon to know whether we are witnessing another 1989 or perhaps, as some commentators have begun to conclude, something more like 1848 (Steinberg, 2011; Stoner, 2012). The conventional wisdom among political scientists is that liberalized authoritarianism is inherently unstable: either discontent must find avenues for expression within prevailing institutions, or, if they cannot be dismantled, they will endure only through suppression of dissent and reversion to hard authoritarianism (Huntington, 1991: 137; Shapiro, 1993: 121:50).

Interest groups

Between elections, interest groups can be major players in shaping policies enacted by governments. This was extensively documented in the “liberal corporatism” literature of the 1970s, in which it was noted that groups like organized business and organized labor would negotiate over industrial policy, with government relegated to the role of a quasi-referee (Schmitter, 1974: 85-131; Panitch, 1976; 1977: 61-90). This might have been overstated. It is, in any case, less obviously relevant to a world in which organized labor has been on the retreat in most countries for the better part of three decades.

Generalizing about the role of interest groups between elections is unwise because they have greater scope for influence in some systems than in others. This is shaped by such factors as the strength and popularity of the government, the power of backbenchers, the relative autonomy and efficacy of the bureaucracy, and the rules governing lobbying and political contributions. Some of these factors might, in turn, vary systematically; perhaps legislators are more susceptible to interest group influence in single member district systems, where they can be targeted, than in list-system PR, where they cannot—or at least not as easily. But it may be that lobbyists can deploy their resources more effectively in list-system PR because power is more centralized. Water flows around a rock.

An under-noticed factor that shapes the influence of interest groups between elections is the intensity of public opinion. Politicians can ignore public opinion on issues that the public does not much care about, since they know they will pay no electoral price. But that does not mean that they can ignore interest groups which might have the resources and incentives to reward or punish politicians depending on how friendly they are to the interest groups’ agendas. This is notably true of the politics of taxation in the U.S., where mass preferences are not intense but those of organized activists are. This means that tax policy is mainly driven by the battles among interest groups, and the carrots and sticks

that they can wave at politicians. This was dramatically true of the repeal of the estate tax in the U.S. in 2001. It was achieved largely due to the efforts of a lobbying coalition that was more effectively put together than the opposing lobbyists in a context where polling revealed to politicians that this would not be an important issue for voters (Graetz and Shapiro, 2005). There are numerous other issues, ranging from abortion to the role of religion in public life, where this gap between the intense preferences of activists and non-intense preferences of voters exists (Fiorina, et. al, 2006). Organized interests battle to shape policy in the space created by that gap.

The amount of space available for interest groups to determine policy varies with the intensity of public opinion. For instance, in 2005 and 2006, exceedingly well organized interests, with strong support from the Bush administration, sought to get Congress to begin privatizing Social Security. They used all of the same tactics that had been so successfully deployed to repeal the estate tax four years earlier to no avail. They ran into the brick wall of intense public opposition to their agenda that could not be moved despite a massive propaganda campaign (Shapiro 2011: 1-38). Just what determines the intensity of public opinion on different issues is not well-understood, but it is a subject of major importance in understanding what the conditions are under which politicians will be responsive to organized interests, rather than to voters, between elections.

Sometimes, perhaps increasingly, powerful interests can work their way around the contours of public opinion by using their power to hijack the democratic process. One mechanism is to ensure that governments and regulators governments are supposed to control, become dependent on the interests they are supposed to be regulating. In effect, the foxes get the keys to the chicken coop. In this connection, it is worth pondering the remark by U.S. Congressman Spencer Bachus, the Republican chairman of the House Financial Services Committee, reported by Paul Krugman in the *New York Times* in December of 2010: "In Washington, the view is that the banks are to be regulated, and my view is

that Washington and the regulators are there to serve the banks” (Krugman, 2010). This is ironic in view of a criticism that was commonly directed at Russia during those same years: that the Russian business oligarchs had more power than the Russian state.

The extent to which regulation of the financial services industry in the United States was dismantled in this way during the run-up to the 2008 financial crisis is now legion. Perhaps the most striking illustration was the Office of Thrift Supervision (OTS). Despite the experience of the Savings and Loan crisis during the 1980s and the bankruptcy of large thrifts under its control in the early new millennium, in the years leading up to the 2008 financial collapse the OTS behaved more like a lobbyist for, rather than a regulator of, the lending banks it was meant to supervise. Dependent for its survival on the fees paid by the institutions it regulated, OTS shopped for business by promising—and delivering—a notoriously hands-off approach. America’s largest mortgage lender, Countrywide Financial, switched to OTS in March of 2007 to avoid more prying regulators—five months before it would be forced to borrow \$11.5 billion in a vain attempt to stave off its unraveling (Bajaj, 2007). By the end of 2008 thrifts under OTS’s regulatory purview controlling some \$356 billion had failed, and the government had seized the three largest institutions it regulated—including Washington Mutual, at the time the largest American bank ever to collapse (Appelbaum & Nakashima, 2008).

In 2004, then-head of Goldman Sachs Henry Paulson Jr. led a delegation of investment bankers to convince the Securities and Exchange Commission that they should be exempt from capital reserve requirements on the grounds that, with assets in excess of \$5 billion, they could be trusted to protect investors on their own. In return, they promised to open their balance sheets to inspection by the SEC. But with a total of seven inspectors responsible for combined assets in excess of \$4 trillion, working in an office that for much of the time lacked even a director, virtually no inspections were performed. As late as March 2008, by which time Paulson had become Secretary of the Treasury, SEC chairman

Christopher Cox was reassuring Congress that the SEC had “a good deal of comfort about the capital cushions” of the major investment banks. Six months later, Lehman Brothers went bankrupt and the other major investment banks were all quickly revealed to be on the verge of drowning in toxic consolidated mortgage debt. They had to be rescued by multibillion-dollar bailouts from the federal government in order to forestall a systemic meltdown (Labaton, 2008). And although executives from industrial companies like Chrysler and General Motors lost their jobs as the price of the 2009 government bailouts, it is notable that the investment bankers were immune—retaining their jobs and bonuses. It seems that their power is unchallengeable (New York Times, 01/2010; Scheer, 2010).

Przeworski and Wallerstein (1988: 11-2) have written about the structural dependence of the state on capital, arguing that even governments with strong electoral mandates are forced to temper tax and regulatory agendas to anticipate the possibility of capital strikes. The decline in capital controls around the world in the decades since they wrote means that the threat of capital strikes increasingly means the threat of capital flight. But the financial crisis of 2008-2010 revealed that capital can threaten much more than exit. Having contributed to the creation of a system in which political survival meant bailing out the banks, the banks were able to put guns to the heads of politicians. At each peak of the crisis, political leaders were confronted with the Hobson’s choice of either bailing them out, or being held responsible for a catastrophic financial meltdown that would likely usher in a new depression. Thus, in May 2010, we saw the hitherto unthinkable specter of Angela Merkel risking an enormous electoral price by committing the German taxpayer to underwriting the German banks’ exposure to Greek debt as that country teetered on the verge of default (New York Times, 04/2010; Connolly, 2010).

Civil society

Interest groups are there to lobby politicians to resist or enact policies, but there are other players with political agendas who seek to shape the political process between elections, often with

considerable success. The “Tea Party” movement in the U.S. is a recent example; their purpose was to obstruct Obama’s domestic agenda as much as possible, by mobilizing public outrage, backing (and attacking) candidates in special elections such as the 2010 senate election to fill Edward Kennedy’s seat, and putting pressure on Republicans who showed signs of compromise with the administration’s legislative agenda. The Tea Party movement worked in loose collaboration with kindred forces in the media to achieve these goals, keeping the government on the defensive and limiting what it could achieve. The well-orchestrated grass-roots opposition to the Troubled Assets Relief Program (TARP) crafted in the transition between the Bush and Obama administrations was a case in point. They created a steady drumbeat of opposition that limited Congress’s power to act. Scores of senators and congressmen in vulnerable seats had their offices flooded with phone calls, emails, and letters opposing the bailout. This forced them to enact a scaled down plan, and it made the possibility of a second TARP—in the event that the first proved insufficient—unthinkable.

This kind of civil-society activism is by its nature event-driven and episodic, but that does not mean that it is unimportant in shaping politics between elections. In addition to limiting governments’ freedom of action, it shapes the terrain on which the next election will be fought and affects who will do the fighting. A big part of the Tea Party’s agenda after 2009 was to pull Republican congressional and senate candidates for the subsequent elections to the Right by creating grass-roots pressure in primary elections. The expansion of primaries since the 1960s was intended to weaken the control of party elites in the nomination of candidates. This it has won, but rather than bottom-up grass-roots involvement that the authors of the Mc-Govern Fraser Commission envisaged when they recommended it for the Democratic Party in 1972, it has made primaries vulnerable to well-organized “astroturf” movements, whose leaders can orchestrate apparent grass-roots support for objectives they seek to advance.

The same is true of ballot initiatives. Like the expanded use of primaries, ballot initiatives were conceived (mainly by people on the Left) as instruments to increase direct democracy and grass roots participation in politics. In practice they have turned out to be susceptible to hijack by single-issue groups—such as anti-tax coalitions or opponents of gay marriage—who pour resources and activists into the fights they care about in states where they think they have a chance of success. The result is a certain amount of perpetual political campaigning, rather than the traditional idea behind alternation in politics in which the side that wins has a limited time in which to implement its agenda. The continuous civil society politics often comes from opponents of the government of the day who are flatly unwilling to concede its mandate. This is evident in the opposition to health insurance reform in the U.S., where the relentless drumbeat on Fox News, right-wing radio talk shows, and among the Tea-Partiers, was premised on the notion that Obama was trying to do something illegitimate. Yet Obama had made health insurance reform a central piece of his campaign, so whence the notion that it was illegitimate?

Just how much democracies should accommodate the mobilization and expression of intense contrarian preferences is a judgment call. Long ago Robert Dahl noted that some accommodation of intensity of preference might be worth trading off in the interests of stability—at least in principle (Dahl, 1956: 90-123). The question that is not well understood is how much accommodation of intensity domesticates it, turning potentially disloyal opposition into loyal opposition, and how much accommodation of intense contrarian preference-holders emboldens them. Israeli governments make a habit of invoking the former when explaining to American administrations why West Bank settlers who defy agreements to stop expanding settlements should not be handled too harshly. But is it plausible to think this keeps them on the reservation for a potential peace agreement, or is it more plausible to think that every inch they are given makes them that much more confident about grabbing the next mile?

That seems, increasingly, to be the view in Moscow. Commentators often observe that civil institutions in post-communist systems, and especially in Russia, are weak. This is notoriously difficult to measure with much confidence (but see Howard, 2003). It seems clear, nonetheless, that the Russian government is not interested in strengthening civil institutions that it cannot control. As Human Rights Watch summarized the situation in 2009: “The government continues tightening control over civil society through selective implementation of the law on NGOs, restriction and censure of protected expression and the media, and harassment of activists and human rights defenders. These actions form an unmistakable part of the Russian government’s efforts to weaken—in some cases beyond recognition—the checks and balances needed for an accountable government” (Human Rights Watch, 2009). There is no evidence that things have since changed. The media remains tightly controlled. The Kremlin screens opposition commentators before they go on the air, and interviews with civic activists are edited before being aired (Orttung and Walker, 2012). Reports that undermine the credibility of various independent NGOs, such as the attack against the Moscow-Helsinki Group in January 2012, stand in stark contrast to Putin’s messages – which are broadcast unadulterated (RIA Novosti, 2012).

Independent journalists have not fared better. They are often harassed, and they get little protection from a corrupt judiciary. Proposed new censorship laws will further curtail the freedom of social networking, empowering the state to blacklist websites under the guise of protecting citizens from inappropriate and misleading content. The draft legislation submitted to the Duma in June 2012 envisages a new state agency with the authority to blacklist websites, and it gives similar power to courts which will be allowed to ban “extremist” and other types of internet content that violates Russian law (Sutter, 2012). In late 2012 it seemed clear that the government had spammed Twitter accounts protesting election irregularities, and there was evidence that it had sought to combat them with floods of machine-produced pro-Kremlin tweets (BBC, 12/2011). When it came to the watchdog groups themselves, the government simply ordered them to shut down their operations – as it did to USAID in

September 2012 most likely in response to its support of election monitoring organizations (Elder and McGreal. 2012).

The creeping authoritarianism in Russia that many have been complaining about for the last decade might not have accelerated to a gallop, but it is speeding up. This makes it harder, in the short run, for civil institutions to compensate for the democratic deficit in the Russian political system or to provide the impetus and resources to address it. Whether this means that a new era of disengaged quiescence is in the offing, or rather that stifled pressure for reform will soon explode, is impossible to predict. The stresses on the system are obvious. But the eruptions since of the past two years remind us – as did those of 1989 – that while political change is often gradual, sometimes it operates more as the theory of punctuated equilibrium would predict. Disgruntlement might simmer for so long that elites discount it – or even forget that it is there. Then, when it does explode, the obvious question suddenly seems to be: why didn't it happen earlier?³

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